THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :9612 of 2007

DATED:16-04-2007

BETWEEN:

M.Yadagiri.

..... PETITIONER

AND

The Government of A.P.,
Rep., by its Principal Secretary,
Home Department,
Secretariat,
Hyderabad & 2 others.

.....RESPONDENTS

ORDER:

Heard learned counsel appearing for the petitioner as well as the learned Government Pleader for Home appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the respondents 1 and 2 in not handing over the investigation of the case in Cr.No.429 of 2005 of Saroornagar police station to CBCID or not below the rank of Deputy Commissioner of Police, as illegal and arbitrary.

3. It is the case of the petitioner that his son aged about 20 years and who studied upto Intermediate went along with his friends to play cricket on 16-05-2005 and while playing there was altercation between his son and his friends, and they beat his son and threw him in Saroornagar tank (lake) at about 1.30 p.m., and at about 2.30 p.m., he received information that his son died and accordingly on his report a case in Cr.No.429 of 2003, dated 17-05-2005, was registered by the police, Saroornagar police station but the police failed to conduct any effective investigation and no report has been filed so far and therefore, the present Writ Petition has been filed.

4. Learned Government Pleader for Home appearing for the respondents on instructions stated that in fact, investigation was

completed and the 3rd respondent filed final report, dated 31-10-2005, i.e., even before filing the writ petition itself, and the final report goes to show that the 3rd respondent investigated the matter, examined five witnesses, recorded their evidence, held inquest over the dead body in the presence of two mediators, and submitted the dead body for autopsy. Dr.Damodar, Osmania General hospital, Hyderabad conducted autopsy and issued post mortem report opining that the cause of death is due to drowning. Since the petitioner suspected certain persons stating that they have killed his son the said persons were interrogated and were also subjected to polygraph test at A.P.F.S.L., Hyderabad where Scientist S.Vijayalaxmi conducted lie detecting test and found that the statement given by the suspects with regard to their innocence appears to be true and they did not throw the deceased into Saroornagar tank and they did not associate with anybody to kill him. It is stated that the son of the petitioner failed intermediate final examination and was facing financial problems as he was not having any source of income except collecting money from his parents and taking money from his father's Kirana shop without the knowledge of his parents and spending the same for smoking, drinking, and going to cinema along with girl friends. He was indebted to a tune of rupees fifteen to twenty thousand to his friends and unable to repay the same and his father also used to scold him on several occasions regarding the money transactions and for not doing any work except spending money. Investigation revealed that the deceased-Vinod Kumar while going on a motor cycle suddenly stopped it, got down and threw the motor cycle on

the pillion rider, jumped into the water tank, drowned, and his friends who witnessed the same tried to rescue him with the help of others but did not succeed in saving his life and they themselves informed the same to the petitioner, rushed to the tank, got removed the dead body, and shifted to Yashoda hospital where he was declared dead.

5. I am of the opinion that if the petitioner is aggrieved by the said final report it is always open for him to take appropriate steps under the relevant provisions of the Code of Criminal Procedure and contest the said report or else it is also open for the petitioner to file a fresh private complaint to establish the said allegations but in view of the aforesaid facts and circumstances, I do not see any merits in the Writ Petition, and in view of the final report which was already filed I am not inclined to grant any relief in this Writ Petition.

6. Accordingly, the Writ Petition is dismissed. No order as to costs.

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V.ESWARAIAH, J

16th April, 2007
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